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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,847	02/09/2004	Patrick J. Murphy SR.	3426 P 002	9504

7590 03/28/2007  
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EXAMINER
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FRANK, RODNEY T

ART UNIT	PAPER NUMBER
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2856

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/28/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/774,847	Applicant(s) MURPHY, PATRICK J.	
	Examiner Rodney T. Frank	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15, 20 and 24 is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-14, 16, 17, 19, 21 and 25 is/are rejected.
- 7) ☒ Claim(s) 8, 9, 18, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>05/10/2004</u> . | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 16 is objected to because of the following informalities: In line 5 of the claim, the word "he" should be replaced with --the--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 12, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by DeSpain et al. (U.S. Patent Number 5,812,060; hereinafter referred to as DeSpain). DeSpain discloses an automated waste cooking grease recycling tank having a top, a bottom, at least one side wall defining an inside and an outside of the tank with a plurality of openings in the tank. A liquid level sensor is inserted into the inside of the tank through one of the plurality of openings with the liquid level sensor operatively connected for sensing at least first and second different liquid levels inside of the tank. A control panel is positioned outside of the tank, operatively coupled to the level sensor and having first and second indicators thereon responsive to signal the first and second different liquid levels sensed inside of the tank. A fill pump is operatively coupled to the control panel and responsive to the control panel for adding grease (Please see the abstract).

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With respect to claim 1, DeSpain discloses, and illustrates in figures 1 and 2, a lubrication reservoir comprising a body (12); a follower moveable in the body (30); and an alarm operably associated with the follower, wherein the alarm generates a signal when the follower is at a predetermined location in the body (see column 6 lines 39 through 64).

With respect to claim 2, the reservoir of claim 1 wherein the alarm generates a signal when the follower is at a lower portion of the reservoir indicating a low-level condition is seen in column 6 lines 39 through 64.

With respect to claim 3, the reservoir of claim 1 wherein the alarm generates a signal when the follower is at an upper portion of the reservoir indicating a high-level condition is seen in column 6 lines 39 through 64.

With respect to claim 12, DeSpain discloses, and illustrates in figures 1 and 2, a lubrication reservoir comprising a body defining a cavity (12); a follower moveably disposed in the body (30); and an alarm operably associated with the follower, wherein the alarm generates a signal when the follower is at a predetermined location in the body, and wherein after the signal has been generated, the follower may move toward a bottom portion of the body (see column 6 lines 39 through 64).

With respect to claim 21, DeSpain discloses, and illustrates in figures 1 and 2, a lubrication reservoir comprising a body defining a cavity adapted to contain a lubricant (12), wherein the body comprises a fill port adapted to communicate a supply of lubricant to the cavity (19); a follower moveable within the body between a lower position and an upper position (30); a first alarm operably associated with the follower,

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wherein the first alarm generates a signal when reservoir has a predetermined amount of usage time remaining; and a second alarm operably associated with the follower, wherein the alarm is configured to automatically interrupt the supply of lubricant through the fill port when the follower is proximate the upper position (see column 9, lines 35 through 62).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-7, 10, 13, 14, 16, 17, 19, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeSpain et al.

6. With respect to claim 4, while the reference does not specifically have an alarm that indicates a predetermined usage time, per se, column 9, lines 35 through 62 indicate that when the device is full, there is a "pump on" operation to empty the tank of grease. The reference describes that the device needs to be emptied once a "grease level high" condition is detected that would indicate that the device can only hold another two fryers worth of grease. In this case, there is a "usage time remaining" that is determined for the device.

With respect to claims 5, 6, 13, 14, and, while not explicitly disclosed, the reference discloses in column 9, line 35 through column 10 line 56 disclose that the device is set up such that once it becomes full, it has an alarm in the form of a buzzer

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that alerts someone that the device needs to be serviced and dumped of grease. The reference states that it has timing circuitry that can be set to operate the device at different times, and thus the device is capable of determining a predetermined usage time of varying degrees.

With respect to claim 7, the figures show a float (follower) that is capable of traveling to the bottom of the body.

With respect to claims 10 and 19, the reference discloses that the device uses a pump to empty the reservoir.

With respect to claims 16 and 17, the reference discloses a device where there is not an alarm to signal an interrupt to the grease through the fill port, but there is a buzzer that indicates that the device needs grease picked up and that device stops the flow of grease at a predetermined maximum level and a signal (alarm) is sounded (see column 11, lines 10 through 17). While it is not implicitly the limitations claimed in claim 16, the disclosure gives a device that uses obvious equivalents to the claimed subject matter. Specifically with respect to claim 17, on a similar note, the reference discloses a maximum fill level, which is near the top of the tank.

With respect to claim 25, this claim requires a body (12) and a follower (float 30) but it gives specific device dimensions in the claim. While the reference does not disclose the specific size dimensions, it has been held that the mere altering of the size of a known device, wherein the size or proportion does not give any unforeseen result or any improvement upon the prior art, then the device is not deemed to be patentable

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over the prior art. In this case, the size and ratio of the tank does not give a change in the operation or results of the device and these limitations are therefore seen as an obvious variant over the present reference.

***Allowable Subject Matter***

7. Claims 15, 20, and 24 are allowed.
8. Claims 8, 9, 18, 22, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. The following is a statement of reasons for the indication of allowable subject matter: The devices utilizing an alarm system having an electrical switch positioned proximate a top of the body, the switch having a spring-loaded rod, and a weight connected to the rod by a cable, the weight associated with the follower wherein as the follower moves to a predetermined position, the weight moves the rod to a position to generate a signal, in combination with the other limitations of the independent claims, is not disclosed nor deemed obvious in view of the present invention.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The examiner has cited various references relevant to the general state of the art of the present invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney T. Frank whose telephone number is (571) 272-2193. The examiner can normally be reached on M-F 9-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RTF

March 15, 2007

  
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SUPERVISORY PATENT EXAMINER  
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